

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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**DATE:** November 13, 2003

**TO:** Orange County Zoning Administrator

**FROM:** PDSD/Current Planning Services Division

**SUBJECT:** Public Hearing on Planning Application PA03-0068 for Variance

**PROPOSAL:** Ted and Lori Metzger request approval of a Variance under Orange County Zoning Code Section 7-9-150 to allow development of a 2-car carport 12' from the front property line, where a standard 20' would be required, in the A1 "General Agricultural" District.

**LOCATION:** In the Silverado-Modjeska Specific Plan area at 28842 Modjeska Canyon Road Third Supervisorial District.

**APPLICANT:** Mr. and Mrs. Metzger - (714) 649-3202

**SYNOPSIS:** Current Planning Services Division recommends Zoning Administrator approval of PA03-0068 subject to the attached findings and conditions.

**STAFF PLANNER/CONTACT:** Jim Swanek, Project Manager  
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**BACKGROUND:**

The proposed project is to add a 2-car carport to an existing 1-car garage, itself attached to a two-story single family home with two other attached 1-car carports 12' from the front property line, where a standard 20' would be required. The existing 1-car garage is intended to subsequently be converted to living space.

The application was originally taken in as variances for the carport in the front and for the second unit in the side. An existing second living unit, constructed per County Assessor's Records sometime prior to 1966, was some 2' from the side property line. An addition to it (making the total 500 square feet of living area) is proposed the required 5' from the side property line. Staff's view is that Zoning Code Section 7-9-151(b)(3), conforming additions to non-conforming structures, applies, and that a variance for the second unit is not required.

Noting that Santiago (Modjeska) Creek runs at the rear of the property, it was also uncertain whether large portions of the existing property were in the floodplain, which would have necessitated a separate Site Development Permit. On 10/22/03, the Chief of the County's Flood Section determined that the property,

except for existing two detached sheds, a coop and animal pen, was outside the Floodplain. Both the area of the carport and the second unit are outside the floodplain. The existing septic fields and septic tank are also located outside the floodplain. Since the sheds, porcine pen, and poultry coop are either older legal non-conforming structures or require no permits, no related conditions are recommended to be imposed on the applicant.

#### **SURROUNDING LAND USE:**

<b>Direction</b>	<b>Land Use Designation</b>	<b>Existing Land Use</b>
Project Site	A1 “General Agricultural”	Single family residential
North	A1 “General Agricultural”	Single family residential
South	A1 “General Agricultural” (FP – Floodplain Overlay)	Vacant
East	A1 “General Agricultural”	Single family residential
West	A1 “General Agricultural” (FP – Floodplain Overlay)	Vacant

#### **REFERRAL FOR COMMENT AND PUBLIC NOTICE:**

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building, and the nearest (Silverado) public library. A copy of the planning application and a copy of the proposed site plan were distributed to County Divisions for technical review and comment. The only comment received dealt with concerns for tree loss. Photos of the site provided by the applicant clearly suggest no trees would be lost. As a result, no Conditions of Approval were included.

#### **CEQA COMPLIANCE:**

Pursuant to the California Environmental Quality Act (CEQA), the proposed project is Categorically Exempt from its requirements (Class 5, minor alterations in land use such as a setback variance).

#### **ANALYSIS:**

The request is to add a 2-car carport to an existing 1-car garage, itself attached to a two-story single family home with two other attached 1-car carports 12’ from the front property line, where a standard 20’ would be required. The existing 1-car garage is intended to subsequently be converted to living space. The approach to and egress from the carport would be in the form of a “thru-driveway” that allows vehicles to enter the carport in one direction and exit the site in the other. In a typical subdivision, staff would probably not recommend approval of this request. However, this is still (and is likely to long

remain) a rural area with low road traffic, and the project is likely to generate few impacts to circulation, even with one more driveway.

Although there is no mandatory review of the project for compliance with provisions of the Silverado-Modjeska Specific Plan, it seems worthwhile to examine potentially relevant site-specific land use policy contained therein:

1. Development should be set back from the roadway in a manner which allows the setback area to be used for screening development from the roadway without obscuring the skyline of distant hills and ridgelines. Screening techniques should include earth berms, tree planting and other natural landscaping.
2. There are to be no paved sidewalks along public roads.
3. Colors, materials and finishes contrasting with the existing environment must be minimized.
4. Parking (area), walkway and security lighting fixtures are not to project above the roof line of any building and are to be shielded in a manner which minimizes their reflection onto adjacent property and public roads.

In terms of compliance with these provisions, the photos provided with the application clearly indicate that the carport, even in the proposed location, will be reasonably well-screened from the road by existing mature oaks and other vegetation. There are no paved sidewalks. Given the rural character of the area, the design of the carport should not significantly contrast, and there is no reason to believe that lighting of the carport area would be any significant added intrusion to either motorists or pedestrians along the road at night.

Before this Variance request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator cannot make these findings, the Variance application must be disapproved.

1. *There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.*
2. *Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.*

Although there are many older properties in the Silverado-Modjeska Specific Plan area that have structural encroachments into front setbacks, perhaps more so in Silverado Canyon than Modjeska Canyon, so that no special privilege would accrue to the property by granting a variance, staff believes the Zoning Administrator should consider this request on its own merits. The property is slightly irregular in shape, the front property line is not well-demarcated from the public street right-of-way, and the rear of the property is a creek. Staff feels the Zoning Administrator can approve the variance, based on these previously stated factors.

## **RECOMMENDATION**

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff presentation and public testimony as appropriate; and,
- b. Approve Application PA 03-0068 subject to the attached Findings and Conditions of Approval.

Respectfully submitted,

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Chad Brown, Chief Site Planning  
PDSD/Current Planning Services

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Applicant's Letter of Justification

Exhibits (Zoning Administrator's copy only):

Site Photos  
Plan Packages

## **APPEAL PROCEDURE**

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision, upon submittal of required documents and appeal processing fee, filed at the Development Processing Center, 300 N. Flower, Santa Ana.